

## Message Text

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DRAFTED BY L/C:DRHENDERSON,JR.:MB

APPROVED BY L/C:FAKWIA TEK

ARA/CEN:DCJOHNSON

ARA/MGT:CWALLARD

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FM SECSTATE WASHDC

TO AMEMBASSY TEGUCIGALPA

UNCLAS STATE 230245

E.O. 11652: N/A

TAGS: ACLM

SUBJECT: MOTOR VEHICLE COLLISION DECEMBER 18, 1975

REFS: (A) TEGUCIGALPA 3918, (B) TEGUCIGALPA OMS JULY 12  
AND MARCH 4 W/ATTACHMENTS, (C) STATE 105311, (D) STATE  
A-1269

1. ALTHOUGH JULY 6 AMENDMENT OF HECTOR R. NUFIO  
GUTERREZ;-GAMERO PERSONAL INJURY AND PROPERTY DAMAGE  
CLAIMS (PRESENTED FEBRUARY 17) EXTENDS FOR SIX MONTHS THE  
STATUTORY PERIOD WITHIN WHICH THEY MUST BE DISPOSED OF,  
DEPARTMENT ATTORNEYS ACTIVELY CONSIDERING SAME IN ACCORD-  
ANCE WITH PROVISIONS OF 2 FAM 280, ETC. HOWEVER,  
EXAMINATION OF THE COMPLEX LEGAL ISSUES AND PROBLEMS OF A  
CLAIM OF THIS MAGNITUDE (U.S. DOLS 230,000 PLUS) ESTAB-  
LISHES DEPARTMENT'S NEED FOR ADDITIONAL INFORMATION AND  
EVIDENCE IN ORDER TO PROPERLY EVALUATE ITS RESPONSIBILITY  
THEREIN. ACCORDINGLY, DEPARTMENT SHOULD BE FURNISHED, ASAP  
THE FOLLOWING:

(A) EMBASSY VEHICLE OPERATOR CRISANTO MELENDEZ' SPECIFIC  
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ASSIGNMENT, IF ANY, AT THE TIME OF THE COLLISION

DECEMBER 18, 1975;

(B) EVIDENCE ON WHICH THE EMBASSY REPORTED, THE TRAFFIC COURT CERTIFIED, AND THE CLAIMANTS ALLEGED THAT MELENDEZ' FAILURE TO STOP AT A STOP SIGN AT AN INTERSECTION WAS THE CAUSE OF THE COLLISION: DID OPERATOR MAKE SUCH A STATEMENT UNDER OATH? DID TRAFFIC COURT REACH SUCH CONCLUSION ON THE BASIS OF A HEARING ON THE EVIDENCE? OTHER?;

(C) SWORN STATEMENTS OF ALLEGED WITNESSES IDENTIFIED (AT P. 6 OF TRANSLATION OF CLAIM) AS ROBERTO MAYR AND JUAN ANGEL MONCADA H;

(D) LEGAL BASIS, IF ANY, ON WHICH EMBASSY INSURER DETERMINED IT WAS LIABLE TO COMPENSATE CLAIMANTS;

(E) COPIES OF COMPLETE TEXT (SPANISH WITH ENGLISH TRANSLATION) OF ARTICLES 2236 AND 2237 OF THE HONDURAN CIVIL CODE AND DECREE NO. 117 OF JULY 13, 1955, REFERRED TO AT P. 8 OF TRANSLATION OF CLAIM;

(F) HONDURAN COURT DECISIONS, IF ANY, THAT ESTABLISH THAT THE U.S., IF A PRIVATE PERSON, IN CIRCUMSTANCES SIMILAR TO THIS CASE, WOULD BE LIABLE TO CLAIMANTS UNDER HONDURAN LAW

(G) EXAMPLES OF LOCAL (HONDURAN) SETTLEMENTS AND COURT JUDGMENTS, WITHIN PAST TWO TO THREE YEARS, IN SIMILAR TYPE PERSONAL INJURY AND PROPERTY DAMAGE CLAIMS (BASIS OF AWARDS AND MONEY AMOUNTS ARE ESSENTIAL TO DEPARTMENT'S CONSIDERATION OF THE CLAIMS);

(H) TYPE AND AMOUNT OF ANY INSURANCE COVERAGE OF EITHER CLAIMANT;

(I) EMBASSY'S RECOMMENDATIONS AND COMMENT AS PREVIOUSLY REQUESTED PARA 4, REFERENCE (C).

2. OBVIOUSLY THE COLLECTION, TRANSMITTAL AND CONSIDERATION OF THE REQUESTED EVIDENCE WILL REQUIRE ADDITIONAL TIME. THEREFORE, EMBASSY SHOULD, IF IT HAS NOT ALREADY UNCLASSIFIED

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DONE SO, WRITE TO CLAIMANTS' ATTORNEY TO (1) ACKNOWLEDGE RECEIPT OF THE AMENDED CLAIMS; (2) REQUEST THAT CLAIMANTS FURNISH EMBASSY THE ADDITIONAL INFORMATION ENUMERATED IN ITEMS (B), (C), (E), (F), (G) AND (H) ABOVE AND (3) STATE THAT FURTHER CONSIDERATION WILL BE GIVEN TO THE CLAIMS BY THE DEPARTMENT WHEN THE REQUESTED INFORMATION HAS BEEN RECEIVED. (EMBASSY INSURER SHOULD ALSO BE REQUESTED TO FURNISH SIMILAR INFORMATION INDEPENDENT OF

AND WITHOUT REFERENCE TO THE REQUEST MADE TO CLAIMANTS.)

3. EMBASSY WILL BE INTERESTED IN KNOWING THAT INCORRECTLY DIRECTED TRANSMITTALS CONCERNING THESE CLAIMS TO DEPARTMENT OFFICES OTHER THAN L/C HAVE CONTRIBUTED TO THE DELAY IN FURNISHING A TIMELY RESPONSE. ACCORDINGLY, DEPARTMENT'S DISPOSITION OF THESE CLAIMS WILL BE GREATLY FACILITATED IF HENCEFORTH THE ORIGINAL OF ALL SUBSTANTIVE DOCUMENTS AND TRANSMITTALS CONCERNING THE CLAIMS ARE DIRECTED TO L/C-FABIAN A. KWIA TEK, THE ACTION OFFICE IN THE LEGAL ADVISER'S OFFICE (SEE 2 FAM 281.2 AND PARAGRAPH 3, REFERENCE (D)). EQUIVALENT U.S. DOLLAR AMOUNTS SHOULD BE FURNISHED FOR ALL SUMS STATED IN OTHER CURRENCIES. HABIB

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